



**State of New Hampshire**  
**PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

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INTER-LAKES EDUCATIONAL ASSOCIATION

Petitioner

v.

INTER-LAKES SCHOOL BOARD

Respondent

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CASE NO. T-0237:10

DECISION NO. 86-60

APPEARANCES

Representing the Inter-Lakes Education Association, NEA-NH:

Wally Cumings, Region Uni. Serv. Directors, NEA-NH

Representing the Inter-Lakes School Board:

Bradley F. Kidder, Esq., Counsel

Also Appearing:

William West, Inter-Lakes Education Association

Janet P. Loto, Inter-Lakes Educ. Assn.

Peter Whefster, Meredith News

Ted Comstock, Dir. of Labor Relations, NHSBA

Philip McCormack, Former I.L. Principal

Ed Kenney, S.A.U. #2

Gary A. Burton, Supt., S.A.U. #2

Alan Blake, Evening Citizen

BACKGROUND

The Inter-Lakes Education Association, NEA-NH filed improper practice charges against the Inter-Lakes Regional School Board, its Officers and Agents, charging violation of RSA 273-A:5 I (a), (c), (d), (e) and (g).

Specifically, the Association charges that William West, an active member of the Association and an Association Building Representative at Inter-Lakes High School, was reprimanded by the High School Principal in retaliation for activities carried out as part of his Association duties. The Association claims that Mr. West's activities are protected by RSA 273-A and the reprimand was therefore an unfair labor practice.

The Board answered that it had not committed any breach of RSA 273-A arguing that the "reprimand" given Mr. West was not "retaliation" and indeed not a reprimand at all since it was not intended as "disciplinary in nature". The Board maintains that the Principal's letter is..."simply an individual's response to the personal attack.." and as such, the Principal's exercise of free speech.

A hearing was held at the PELRB office in Concord on August 28, 1986 with all parties represented.

#### FINDING OF FACT

1. Mr. William West is employed by the Inter-Lakes School District as a teacher at Inter-Lakes High School. Mr. West is also active in the Inter-Lakes Education Association, having served on the Association Negotiating team since September of 1983 and currently serves as an Association Building Representative at Inter-Lakes High School.
2. At a regular School Board Meeting on April 8, 1985, the School Board apparently did not agree to binding fact-finding (on non-money items) proposed by the teachers. Also at this meeting, the High School Principal, Mr. McCormack, "shared with the Board, a list of senior class activities" (SB#1) and in general, praised the quality and preparation of these activities.
3. On April 9, 1985, Mr. West caused to be disseminated an Association "flyer" (Assn. Exhibit #1), announcing the School Board's rejection of binding fact-finding and also (at the close) characterizing Principal McCormack's action at the meeting as "...a long winded speech"...
4. Mr. West met with Mr. McCormack on April 9, 1985 and discussed Mr. West's activities and particularly the flyer and the characterization of Mr. McCormack's actions.
5. On April 10, 1985, Principal McCormack wrote a letter to Mr. West (Assn Exhibit #2) in which Mr. McCormack indicated how displeased he was with "...the content and tone..." of the flyer. Mr. McCormack indicated that he took Mr. West's comments as "...a personal attack" and as an attempt to alienate staff..." (from him). Mr. McCormack refers several times to the negotiations process in his letter and generally and specifically critized Mr. West for the distribution of the flyer and asks Mr. West to..."in future to direct your attention to a positive resolution to the conflict rather than a degradation of the system." The letter is clearly a criticism of Mr. West's behavior in writing and distributing this particular flyer. The letter was placed in Mr. West's personnel file.

6. The contract negotiations were "stalled" at the time and no raises had been given and there was significant concern and discussion about morale in the schools (both teacher and student).
7. In subsequent evaluation of Mr. West (received by him on 2/20/86), Mr. McCormack refers again to the above flyer and his letter about it, causing a somewhat negative rating for Mr. West on the item "works cooperatively with all members of the staff." This was Mr. West's only less than satisfactory rating. Mr. McCormack testified that the only basis for this rating was the flyer incident.
8. Mr. McCormack testified that should a teacher receive two less than satisfactory ratings, they could be denied a pay increment.

#### RULINGS OF LAW

1. Mr. West's issuance of the "flyer" reporting the School Board action on the teacher's proposal was done in his role as a Union Representative and not as his personal business.
2. Mr. West's statements and characterizations of Mr. McCormack's talk before the School Board are not "irresponsible" but simply his opinion of what took place. Mr. West's characterization cannot be received as so erroneous or damaging as to constitute a danger to the continued good management of the schools and cannot be simply condemned on these grounds.
3. If Mr. McCormack was personally hurt by Mr. West's statement, he had other, personal, avenues open to him to communicate that to Mr. West personally and prudently, or perhaps even develop an attitude of ignoring such opinions.
4. The placement of the letter in Mr. West's files constitutes a retaliation for Mr. West's actions and can be used, and was used, to punish Mr. West with a lower than satisfactory rating on his subsequent evaluation report. This action constitutes a punishment for protected activities under the act. If allowed to stand, this action would at least have a "chilling effect", for no sound public reason, on future activities of all union representatives. We cannot allow such anti-union activity since it is clearly contrary to the law.

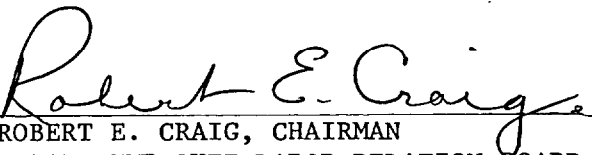
#### ORDER

The PELRB finds the Inter-Lakes School Board and its agents guilty of an unfair labor practice having violated RSA 273-A:5, I, (a) and (b), and

- a. orders the School Board and its agents to cease and desist from interfering with employees exercising their rights under the chapter or interfering with the conduct of Association business, and
- b. orders the School Board and its agents to remove the McCormack letter from Mr. West's file and,
- c. Expunge all reference to the incident from Mr. West's personnel file

including but not limited, to the evaluation of February, 1985, and

- d. to post this notice for 60 days in conspicuous locations in all administrative and school buildings with the S.A.U., and
- e. report compliance to the Board promptly.

  
ROBERT E. CRAIG, CHAIRMAN  
PUBLIC EMPLOYEE LABOR RELATION BOARD

Signed this 25th day of September, 1986

By unanimous vote. Chairman Robert E. Craig presiding. Members Seymour Osman and James C. Anderson present and voting. Also present, Executive Director, Evelyn C. LeBrun.